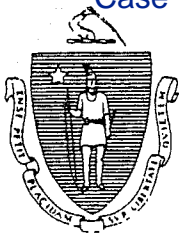


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FRANK G. COUSINS, JR.
SHERIFF

Essex County Correctional Facility
&
Sheriff's Headquarters

POST OFFICE BOX 807
20 MANNING AVENUE
MIDDLETON, MA 01949-2807

TELEPHONE
(978) 750-1900
FAX
(978) 750-1999

To: David McCoy, Asst. Supt. of Operations

From: John Russell, Asst. Supt.

CC: Superintendent Michael Marks

Date: December 30, 2002

Re: Handling of Kitchen Incident, December 23, 2002

After careful review of all reports generated in regard to the incident that occurred in the kitchen on 12/23/02, I have some concerns over the way you chose to handle the situation.

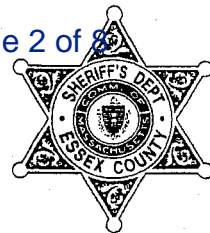
I would be remiss if I failed to address the way you handled the situation.

1. You were made aware of the allegations shortly after they were made. You failed to make anyone else aware of the problem so that an investigation could begin.
2. In cases such as these it is Standard Operation Procedure to send the staff member of whom the allegation have been made home with pay pending outcome of an investigation.

The Department considers all such allegations serious and they need to be handled properly for the protections of all parties involved.

In the future, if the situation should arise, Supt. Marks or myself and Security Investigations must be notified and a determination will be made as to temporarily relieving the accused staff person from duty pending the outcome of an investigation.


Signature of receipt, Asst. Supt. David McCoy

*Essex County Sheriff's Headquarters*

Frank G. Cousins, Jr.
Sheriff

P.O. Box 807
20 Manning Avenue
Middleton, MA 01949-2807

Tel: (978) 750-1900 x3370
Fax: (978) 750-1999
www.eccf.com

To: Assistant Superintendent Richard Hamilton
From: ADS Timothy McGuire 
Date: December 24, 2002
Re: Case # 02-0162 / Alleged Assault on inmate Joseph Christoforo # 203176

On December 23, 2002, at approx. 4:50pm, I was contacted at my residence by Shift Commander William Center who asked me if I knew anything about inmate Joseph Christoforo being held in the infirmary. I stated that I did not and was then informed by Deputy Center that inmate Christoforo had an injury to his ear and that he was claiming that Julio Lupo the staffs cook had assaulted him. I again stated that I had no knowledge of this incident and asked Deputy Center to speak with inmate Christoforo and find out what had happened, he stated that he would and that he would contact me later on.

At approx. 5:55pm Deputy Center called me and stated that he had spoken to inmate Christoforo and that inmate Christoforo is in fact alleging that Julio Lupo physically assaulted him while he was working in the kitchen earlier in the day. I then told Deputy Center that I would be interview inmate Christoforo when I came to work on December 24, 2002.

At approx. 6:10pm on December 24, 2002, I was contacted by Assistant Superintendent David McCoy who had informed me he had just spoken to Deputy Center about the alleged assault on inmate Christoforo. AS McCoy stated that Julio Lupo had contacted him earlier in the day about this incident. He also stated that he had gone to the infirmary along with Mr. Lupo and spoken to inmate Christoforo about this incident. I asked AS McCoy why he had not informed anyone of these allegations and he stated that he told inmate Christoforo to file a grievance and thought issue would just be followed through on the grievance process.

On December 24, 2002, at approx. 7:00am I interviewed inmate Christoforo about these allegations he had made against Julio Lupo.

The following remarks are a summery of what inmate Christoforo had stated:

Inmate Christoforo has been working in the Kitchen for approx. 5 months. During this time he has worked as the "Head inmate Cook". Recently inmate Christoforo had been unhappy in this position because of the verbal abuse Julio Lupo has directing toward him.

On December 23, 2002, inmate Christoforo stated that he had enough of Julio Lupo's badgering and wanted to get out of the kitchen or given another job other than head cook. When inmate Christoforo brought this up to Julio Lupo, Lupo became upset and started screaming at him telling him if he wasn't going to cook then he could clean the toilets. Inmate Christoforo then went on to say that he was assigned to the assembly line filling the trays. While on the line another inmate who was standing across from inmate Christoforo (Later identified as Robert Smith #206540) asked Julio Lupo if he could get a job as a prep cook because he had some experience in the area. Julio Lupo then stated to inmate Smith "Shut up you Mulian and just worry about these trays". As Julio walked away the other line workers became loud because of the comment made by Julio Lupo. As the inmates became loud Julio Lupo came back to the line and told them all to shut up and then turned to inmate Christoforo and stated that he need to stop instigating these guys and the next thing Christoforo knew his ears were ringing and he felt severe pain to the side of his head from Julio Lupo hitting him. Inmate Christoforo then went out to the inmate dinning area and talked to the other inmates about what had happened. As he sat there discussing this with them he became dizzy and sick to his stomach. Inmate Christoforo then went and told ADS Kathy Lawrence what had happened and she sent him to the infirmary. End of summery.

I then asked inmate Christoforo if anyone else saw Julio Lupo hit him and he state that all of the line workers were there and that the kitchen staff were all at the desk across from the line.

At this time, I called the kitchen and asked them to send over several of the line workers.

I first spoke with Eugene Fernandez who stated that while he was working on the line he was part of a conversation with the other workers about the way Julio Lupo acts and that Julio over heard them talking. Julio Lupo walked over to the workers and told inmate Smith to shut his mouth and keep working. Inmate Fernandez then stated that Julio walked over to inmate Christoforo and "Smacked" him in the back of the head and told him to stop instigating the other inmates.

I then spoke to inmate Ralph Sordillo who is also a line worker in the kitchen as well as inmate Christoforo's roommate. Inmate Sordillo was extremely reluctant to speak saying he wanted Lawyer. I explained to him that I was just asking him some questions about what he may or may have not seen yesterday while he was working the food line. He again acted very paranoid and stated he had nothing to say. I believe inmate Sordillo has some type of Mental Health issues because of the way he was acting and ended the interview.

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I then spoke with inmate Richard Smith and asked him if he observed anything while working the food line yesterday. Inmate Smith stated that the racist cop, named Julio called him a "Mulian". I asked him to explain what happened and he went on to state that he was working the line and he asked Julio Lupo if he could have a job as a Prep Cook. According to inmate Smith Julio then turned to Smith and stated "Listen you Mulian just get to work and fill the trays. Inmate Smith then stated that he didn't know what "Mulian" meant until inmate Christoforo told him that the Italians call black people Mulians instead of nigger. This infuriated inmate Smith and he started to yell about the situation. Julio Lupo came back a few minutes later and told the inmates to quiet down and get back to work. Inmate Smith then states that Julio turned to inmate Christoforo who was right across from inmate Smith and smacked him in the head.

Inmate Smith went on to say that he was still upset about the comments that Julio Lupo made towards him and that something needs to be done about the way Julio treats people. I then ended the interview and sent the inmates back to the kitchen.

I did call and request reports from Julio Lupo, Kathy Lawrence and Officer Joe Curran. I have received reports from ADS Lawrence and Julio Lupo (See attached) Officer Curran is on his days off. I did contact him at his residence and he stated that he was not in the area of the incident but that he was approached by inmate Christoforo about this and he told inmate Christoforo to speak with ADS Kathy Lawrence.

According to Julio Lupo's report, he heard the inmates being loud, as he approached the area of the food line he observed inmate Richard Smith and Joe Christoforo being disruptive. He also stated that he over heard inmate Christoforo talking about him in a degrading and disrespectful manner. Julio Lupo then states that he went and tapped inmate Christoforo on the ear and told him to quiet down or he would be sent back to his unit.

I have also spoken to the Medical staff, Nurse Practitioner Janice Hall and she has informed me that inmate Christoforo does have some damage to his left ear drum. A blow to the head could have caused this. (See attached nurses notes) She also stated that when inmate Christoforo arrived in the infirmary on December 23, 2002, he complained that he felt dizzy and sick to his stomach. He did vomit several times while in the infirmary. She checked his ear and did find fluid as well as a lump on the back of the ear and head. According to NP Janice Hall this type of injury is very consistent with being struck in the ear. Inmate Christoforo was held in the infirmary over night. He felt better in the morning and was released back to population.

Conclusion: at this time I believe there is evidence to substantiate Julio Lupo did assault inmate Christoforo. I believe this because of the consistency of the statements of the other inmates in the area, the medical reports filed by Nurse Practitioner Janice Hall and the injury to inmate Christoforo's ear. End of report.

ADS Timothy McGuire

CORRECTIONAL MEDICAL SERVICES
HEALTH SERVICES REQUEST FORM

Print Name: Christofers, Joseph Date of Request: 12/23/02
ID #: 10268 Date of Birth: 11/20/63 Housing Location: 740B

Nature of problem or request: Somnolence

I consent to be treated by health staff for the condition described.

SIGNATURE

PLACE THIS SLIP IN MEDICAL BOX OR DESIGNATED AREA
DO NOT WRITE BELOW THIS AREA

HEALTH CARE DOCUMENTATION

Subjective: IM states struck on side of head this
AM. states he feels dizzy and
vomiting. - pale

Objective: BP 120/80 P 98 R 20 T 98%
Q 130/86 101

Assessment: P = RHA
Pale, diaphoretic - C/v pringling in ears
unsteady gait.

Plan: PEARL. NO nystagmus. @ TM & slight
bulge & serous fluid @ LR. 4/6 annulus
& nausea.

Refer to: PA/Physician Mental Health Dental
will order Tigan / Anivert &
observe

Signature: _____ Title: _____ Date: _____ Time: _____

CORRECTIONAL MEDICAL SERVICES

INTERDISCIPLINARY PROGRESS NOTES

Patient Name Christopher, Joseph I.D. # 10768 Institution _____

DATE TIME NOTES SIGNATURE

12/23/02 11 A Jm Christopher admitted to infirmary for a head injury. Jm reports complaining of ringing in lt ear, feeling dizzy and some fatigue. Vital signs stable. Neuro checks stable. Placing in naps. J. Delmonico

12/23/02 1 P (S) "my ear hurts. I have a lump on the back of my ear"

(O) Small lump on lt posterior ear & head & ecchymosis. (N) Nausea. (V) Vomiting

(A) Alt in comfort

(P) cont to monitor _____ J. Delmonico MD

12/23/02 2 P Neuro signs clear. PERLA. c/o H/A. Motrin given. J. Delmonico MD

12/23/02 Addendum: BP 120/70 AP 81 O2 Sat 97% J. Delmonico MD

12/24/02 8:15 S/p assault to P ear yesterday.

Feels better. Denies tinnitus. Still

Feels slight fullness P ear. Denies

N/V. TM intact. PEARL. Steady

gait. Denies vertigo. Will clear to

population. Pt to RTC if st return

J. Delmonico

CORRECTIONAL MEDICAL SERVICES

INTERDISCIPLINARY PROGRESS NOTES

Patient Name Christoforo, Joseph I.D. # 10768 Institution Reed

| DATE | TIME | NOTES | SIGNATURE |
|------|------|-------|-----------|
|------|------|-------|-----------|

12-24-02

11⁰⁰A

Ⓢ Hit by officer Pearson while working in kitchen. c/o nausea, dizziness & ringing

Ⓢ Pt pale, vomiting @ noc station
 BP 120/80 P 98 R 20 Sat 98%
 pt. mildly diaphoretic, difficulty
 w/ steady gait ? Ind dizziness
 PEARL. NO nystagmus. TM intact
 c/ slight bulge & serous fluid c
 ↓ LR

Ⓢ Assault to Pearson

Ⓢ Observe, antiepilept, triam prn

J. Haines

INTERDISCIPLINARY PROGRESS NOTES

Patient Name Christoforo, Joseph I.D. # 10768 Institution ECM

| DATE | TIME | NOTES | SIGNATURE |
|----------|------|---|-----------|
| 12-24-82 | 900A | Addendum: Pt also mentions bruise @ thigh. Reports hit leg on table when reacting to assault to ear by jumping up. 3 1/2 cm long x 2 cm wide ant @ thigh ecchymotic area. | J. Hallen |